

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

FELIX D. WHITTINGTON,	:	CIVIL ACTION
Plaintiff		:
v.		
DONALD VAUGHN, et al.,	:	
Defendants		No. 02-4346

ORDER

BY THE COURT

MARVIN KATZ, S.J.

¹ “Commonwealth defendants” refers to the following defendants: the State Correctional Institution at Graterford; Donald Vaughn; Mary Canino; Francis “Skip” Field; Thomas Buzzar; David DiGuglielmo; and Guy Smith.

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FELIX D. WHITTINGTON,	:	CIVIL ACTION
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Plaintiff	:	
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vi.	:	
	:	
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	:	
Defendants	:	No. 02-4346

**COMMONWEALTH DEFENDANTS' MOTION TO STAY PRETRIAL SUBMISSIONS
AND PROCEEDINGS PENDING DISPOSITION OF THEIR MOTION FOR
SUMMARY JUDGMENT**

The Commonwealth defendants,² by their attorney Kevin R. Bradford, Deputy Attorney General, hereby request that the Court stay further proceedings herein pending disposition of their motion for summary judgment. In support of this motion, the Commonwealth defendants state:

1. This is a *pro se* prisoner's civil rights action. Plaintiff is currently incarcerated at the State Correctional Institution at Greene, located in Waynesburg, Pennsylvania.

² The following Commonwealth of Pennsylvania employees and entities are named as defendants: the State Correctional Institution at Graterford ("SCI Graterford"); Donald Vaughn, the ex-Superintendent of SCI Graterford and current Deputy Secretary of the Eastern Region of the Pennsylvania Department of Corrections ("DOC"); Mary Canino, a DOC Hearing Examiner; and Francis "Skip" Feild, a Major at SCI Graterford (collectively, "Commonwealth defendants"). There are other Commonwealth employees that are not listed in the caption of the Complaint nor on the Court's docket, but are named on page 2 of Plaintiff's Complaint in a section where each defendant is to be described. These individuals are David DiGuglielmo, the ex-Deputy for Facility Management and current Acting Superintendent at SCI Graterford; Thomas Buzzar, a Major at SCI Graterford; and Guy Smith, a Captain at SCI Graterford. For the sake of clarity and comprehensiveness, the aforementioned Commonwealth agency and employees will all be considered defendants and collectively referred to as the "Commonwealth defendants."

2. On July 2, 2003, the Court entered a scheduling order calling for the completion of discovery by October 1, 2003; the filing of pretrial memoranda and other materials on certain dates thereafter; and placement of this case in the trial pool on November 5, 2003.

3. To date Plaintiff has failed to meet any of these filing obligations. Plaintiff's pretrial memorandum and related materials were due on October 14, 2003.

4. The Commonwealth defendants have filed a motion for summary judgment in their favor, which is pending as of this date. In this motion, the Commonwealth defendants have attempted to structure Plaintiff's claims and allegations in a somewhat coherent and organized manner – something completely lacking in Plaintiff's Complaint.

5. Plaintiff has not yet responded to this motion and, pursuant to the Local Rule 7.1 (c), he has until October 31, 2003 to do so.³

6. If the motion of the Commonwealth defendants is granted in its entirety, the case against them will not have to be tried, and there will be no need for them (or Plaintiff) to file a pretrial memorandum or other pretrial submissions at all. If the motion is granted in part and denied in part, the triable issues will at least be narrowed.

7. After the Commonwealth defendants commenced in their effort to comply with the July 2, 2003 scheduling order regarding the submission of a pretrial memorandum and related materials, it became clear that creating these documents at this stage of the proceedings would provide hardly any meaningful information. The Commonwealth defendants cannot prepare meaningful, useful pretrial submissions, or prepare for trial in an intelligent and efficient manner, without knowing which of plaintiff's claims and allegations, if any, will proceed to trial.

³ Although Local Rule 7.1 (c) calls for a response to a motion within 14 days, where the motion is served by mail, as it was here, three days are added to the response time. Fed.R.Civ.P. 6(e).

8. A stay of the parties' filing obligations under the July 2, 2003 scheduling order, and of the placement of this trial in the trial pool, pending disposition of the Commonwealth defendant's motion for summary judgment will enable the parties, counsel, and the Court to use available time and resources more efficiently and effectively.

9. This motion is not made with any dilatory intent

WHEREFORE, the Commonwealth defendants pray for an order a) staying the parties' obligations to file pretrial memoranda and other submissions, pending disposition of their motion for summary judgment; b) staying placement of this case in the trial pool, pending disposition of their motion for summary judgment; and c) affording such further relief is just and proper.

D. MICHAEL FISHER
ATTORNEY GENERAL

BY: s/ Kevin Bradford
Kevin R. Bradford
Deputy Attorney General
Identification No. 88576

Susan J. Forney
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CERTIFICATE OF SERVICE

I, Kevin R. Bradford, Deputy Attorney General, hereby certify that the within Motion to Stay Pretrial Submissions and Proceedings was electronically filed and is available for viewing and downloading from the ECF system at <https://ecf.paed.uscourts.gov/>.

I further certify that a true and correct copy of this document was mailed on October 23, 2003, by first class mail, postage prepaid to:

Felix D. Whittington
Inmate No. AY-4935
State Correctional Institution
at Greene
175 Progress Drive
Waynesburg, PA 15370

D. MICHAEL FISHER
ATTORNEY GENERAL

BY: s/ Kevin Bradford
Kevin R. Bradford
Deputy Attorney General
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